

Daniel Harshman, Esq.  
COZEN O'CONNOR  
777 South Figueroa Street  
Suite 2850  
Los Angeles, California 90017  
Telephone: 213.892.7900  
Facsimile: 213.892.7999

Bryan A. McBurney  
CLAUSEN MILLER P.C.  
2040 Main Street  
Suite 500  
Irvine, California 92614  
Telephone: 949.260.3100  
Facsimile: 949.260.3190

S. Ellyn Farley  
COZEN O'CONNOR  
222 S. Riverside Plaza  
Suite 1500  
Chicago, Illinois 60606  
Telephone: 312.382.3197  
Facsimile: 312.382.8910  
*Admitted Pro Hac Vice*

Paul Bozych (Admitted PHV)  
Todd M. Murphy (Admitted PHV)  
CLAUSEN MILLER P.C.  
10 South LaSalle Street  
Suite 1600  
Chicago, Illinois 60603  
Telephone: 312.606.7697  
Facsimile: 312.606.7777

Attorneys for Plaintiff,  
Lexington Insurance Company

Attorneys for Defendant Schrader-  
Bridgeport International, Inc.

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

Lexington Insurance Company, as Subrogee  
of B-G Western, Inc.,

Plaintiff,

vs.

Schrader-Bridgeport International, Inc.,

Defendant.

Case No.: 3:09-cv-01509

Judge: Samuel Conti

**AMENDED JOINT  
STIPULATION FOR  
ENLARGEMENT OF TIME FOR  
PLAINTIFF TO FILE  
OPPOSITION TO  
DEFENDANT'S MOTION FOR  
SUMMARY JUDGMENT**

PLAINTIFF LEXINGTON INSURANCE COMPANY, AS SUBROGEE OF B-G  
WESTERN, INC. AND DEFENDANT SCHRADER-BRIDGEPORT  
INTERNATIONAL, INC. HEREBY STIPULATE AS FOLLOWS:

1. This is a contribution action, arising out of a previous action filed in the  
United States District, Northern District of California styled as *Feliciano Reyes v. The  
Home Dept and Erwin Industrial Tool Company* (erroneously sued as "BenzOmatic"),  
Case No. C-06-04863 SC (hereinafter "the underlying litigation").

2. In the underlying action, the Plaintiff, Feliciano Reyes, alleged that a  
BernzOmatic T-4000 torch, which is hand-held torch attached to a MAPP gas canister,

1 ignited, causing him to sustain burn injuries. The underlying litigation was settled  
2 following a mediation and pursuant to a Settlement Agreement and General Release  
3 entered into between Mr. Reyes and the defendants in the underlying litigation.

4 3. Plaintiff in this action, Lexington Insurance Company, has alleged that  
5 the cause of the ignition of the fire that caused Mr. Reyes' burn injuries was a leak  
6 with the valve on the canister, provided by Defendant, Schrader-Bridgeport  
7 International, Inc., when the torch was removed from the canister.

8 4. At approximately 4:14 p.m. CDT on Friday, April 30, 2010, Defendant,  
9 Schrader-Bridgeport International, Inc., filed its Motion for Summary Judgment (See,  
10 ECF No. 42).

11 5. Pursuant to Local Rule 7-3(a), entitled Opposition, "[a]ny opposition to a  
12 motion must be served and filed not less than 21 days before the hearing date." In  
13 addition, Local Rule 7-3(a) provides that, "[t]he opposition may include a proposed  
14 order, affidavits or declarations, as well as a brief or memorandum under Civil L.R. 7-  
15 4"

16 6. At the time Defendant's Motion for Summary Judgment was  
17 electronically filed, a hearing date on the motion was set for May 28, 2010 (See, ECF  
18 No. 42). As such, pursuant to Local Rule 7-3(a), Plaintiff's opposition and  
19 accompanying or supporting affidavits were to be served and filed on May 7, 2010.<sup>1</sup>

20 7. Due to the hearing date that was set for the motion and in light of the  
21 requirements of Local Rule 7-3, Plaintiff was provided a period of only seven (7) days  
22 to submit its opposition to Defendant's dispositive motion.

23 8. Pursuant to Local Rule 6-1, Plaintiff is seeking an extension of time, by  
24 stipulation, of seven (7) days, up to and including May 14, 2010, to file its  
25 memorandum in opposition to Defendant's Motion for Summary Judgment. Defense  
26 counsel has agreed to this request for an enlargement of time of seven (7) days in

---

27 <sup>1</sup> The parties previously filed a joint stipulation for an enlargement of time for Plaintiff to file its opposition to  
28 Defendant's Motion for Summary Judgment on May 7, 2010. This amended stipulation provides further clarification  
and detail per the request of the Court.

1 order for Plaintiff to file and serve its opposition to the Motion for Summary  
2 Judgment. Defendant's Reply in Support of its Motion for Summary Judgment will  
3 then be due seven (7) days thereafter, on or by May 21, 2010.

4 9. Pursuant to Local Rule 6-2(a)(2), no previous time modifications have  
5 been granted by Court order.

6 10. Pursuant to Local Rule 6-2(a)(3), there are no known effects that the  
7 requested time modification would have on the schedule for the case. Specifically, the  
8 entry of an order enlarging the time for the filing of Plaintiff's opposition to  
9 Defendant's Motion for Summary Judgment will not impact any further or future  
10 dates in this action, including the pre-trial conference, the trial, or any deadlines for  
11 the submission of pre-trial materials.

12 11. Moreover, Plaintiff would incur substantial harm and prejudice if not  
13 allowed to file an opposition to the pending motion for summary judgment pursuant to  
14 Local and Federal Rules, insofar as Plaintiff would not be permitted to provide  
15 pertinent information for the Court's consideration prior to disposition of this action.  
16 In addition, while Plaintiff would incur severe prejudice absent a nominal enlargement  
17 of time to file its opposition and accompanying affidavit to the pending motion, no  
18 such harm or prejudice would result from the entry of the Order sought.

19 12. This stipulation is not filed to unnecessarily delay the progress and  
20 resolution of this litigation.

21 13. Defendant's Motion for Summary Judgment is being submitted on the  
22 papers only, and no oral argument is requested. As such, the hearing previously set on  
23 the Motion for Summary Judgment on May 28, 2010 (See, ECF No. 42) can be  
24 stricken from the Court's calendar.

25 WHEREFORE Plaintiff, Lexington Insurance Company, as Subrogee of B-G  
26 Western, Inc., and Defendant, Schrader-Bridgeport International, Inc., respectfully  
27 request that this Court enter an Order, extending the date for the filing and service of  
28 Plaintiff's Opposition to Defendant's Motion for Summary Judgment by a period of

1 seven (7) days, up to and including May 14, 2010, and extending the date for the filing  
2 and service of Defendant's Reply in Support of its Motion for Summary Judgment up  
3 to and including May 21, 2010, and striking the hearing on Defendant's Motion for  
4 Summary Judgment set for May 28, 2010, and for any other relief this Court deems  
5 just and appropriate.

6 DATE: 5/12/2010

COZEN O'CONNOR

7  
8 By: s/S. Ellyn Farley

S. Ellyn Farley (*Admitted PHV*)  
222 S. Riverside Plaza  
Suite 1500  
Chicago, Illinois 60606  
Telephone: 312.382.3197  
Facsimile: 312.382.8910

11 and

12  
13 Daniel Harshman  
777 South Figueroa Street  
Suite 2850  
Los Angeles, California 90017  
Telephone: 213.892.7000  
Facsimile: 213.892.7999

16 ***Attorneys for Plaintiff, Lexington***  
17 ***Insurance Company***

18 DATE: 05/12/2010

CLAUSEN MILLER P.C.

19  
20 By: s/Todd M. Murphy (with consent)

Todd M. Murphy (*Admitted PHV*)  
Paul Bozych (*Admitted PHV*)  
10 South LaSalle Street  
Suite 1600  
Chicago, Illinois 60603  
Telephone: 312.606.7697  
Facsimile: 312.606.7777

24 Bryan A. McBurney  
2040 Main Street, Suite 500  
Irvine, California 92614  
Telephone: 949.260.3100  
Facsimile: 949.260.3190  
27 ***Attorneys for Defendant Schrader-***  
28 ***Bridgeport International, Inc.***

**CERTIFICATE OF SERVICE**

I hereby certify that I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which sent notification of such filing to the following attorneys and I hereby certify that the above and foregoing was delivered, via email on this 12th day of May, 2010, to:

Todd M. Murphy (*Admitted PHV*)  
Paul Bozych (*Admitted PHV*)\  
CLAUSEN MILLER P.C.  
10 South LaSalle Street, Suite 1600  
Chicago, Illinois 60603  
Telephone: 312.606.7697  
Facsimile: 312.606.7777

and

Bryan A. McBurney  
2040 Main Street  
Suite 500  
Irvine, California 92614  
Telephone: 949.260.3100  
Facsimile: 949.260.3190  
*Attorneys for Defendant Schrader-Bridgeport International, Inc.*

---

Daniel Harshman, Esq.  
COZEN O'CONNOR  
777 South Figueroa Street  
Suite 2850  
Los Angeles, California 90017  
Telephone: 213.892.7900  
Facsimile: 213.892.7999

Bryan A. McBurney  
CLAUSEN MILLER P.C.  
2040 Main Street  
Suite 500  
Irvine, California 92614  
Telephone: 949.260.3100  
Facsimile: 949.260.3190

S. Ellyn Farley  
COZEN O'CONNOR  
222 S. Riverside Plaza  
Suite 1500  
Chicago, Illinois 60606  
Telephone: 312.382.3197  
Facsimile: 312.382.8910  
*Admitted Pro Hac Vice*

Paul Bozych (Admitted PHV)  
Todd M. Murphy (Admitted PHV)  
CLAUSEN MILLER P.C.  
10 South LaSalle Street  
Suite 1600  
Chicago, Illinois 60603  
Telephone: 312.606.7697  
Facsimile: 312.606.7777

Attorneys for Plaintiff,  
Lexington Insurance Company

Attorneys for Defendant Schrader-  
Bridgeport International, Inc.

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

Lexington Insurance Company, as Subrogee  
of B-G Western, Inc.,

Plaintiff,

vs.

Schrader-Bridgeport International, Inc.,

Defendant.

Case No.: 3:09-cv-01509

Judge: Samuel Conti

**AMENDED JOINT  
STIPULATION FOR  
ENLARGEMENT OF TIME FOR  
PLAINTIFF TO FILE  
OPPOSITION TO  
DEFENDANT'S MOTION FOR  
SUMMARY JUDGMENT**

PLAINTIFF LEXINGTON INSURANCE COMPANY, AS SUBROGEE OF B-G  
WESTERN, INC. AND DEFENDANT SCHRADER-BRIDGEPORT  
INTERNATIONAL, INC. HEREBY STIPULATE AS FOLLOWS:

1. This is a contribution action, arising out of a previous action filed in the  
United States District, Northern District of California styled as *Feliciano Reyes v. The  
Home Dept and Erwin Industrial Tool Company* (erroneously sued as "BenzOmatic"),  
Case No. C-06-04863 SC (hereinafter "the underlying litigation").

2. In the underlying action, the Plaintiff, Feliciano Reyes, alleged that a  
BernzOmatic T-4000 torch, which is hand-held torch attached to a MAPP gas canister,

1 ignited, causing him to sustain burn injuries. The underlying litigation was settled  
2 following a mediation and pursuant to a Settlement Agreement and General Release  
3 entered into between Mr. Reyes and the defendants in the underlying litigation.

4 3. Plaintiff in this action, Lexington Insurance Company, has alleged that  
5 the cause of the ignition of the fire that caused Mr. Reyes' burn injuries was a leak  
6 with the valve on the canister, provided by Defendant, Schrader-Bridgeport  
7 International, Inc., when the torch was removed from the canister.

8 4. At approximately 4:14 p.m. CDT on Friday, April 30, 2010, Defendant,  
9 Schrader-Bridgeport International, Inc., filed its Motion for Summary Judgment (See,  
10 ECF No. 42).

11 5. Pursuant to Local Rule 7-3(a), entitled Opposition, "[a]ny opposition to a  
12 motion must be served and filed not less than 21 days before the hearing date." In  
13 addition, Local Rule 7-3(a) provides that, "[t]he opposition may include a proposed  
14 order, affidavits or declarations, as well as a brief or memorandum under Civil L.R. 7-  
15 4"

16 6. At the time Defendant's Motion for Summary Judgment was  
17 electronically filed, a hearing date on the motion was set for May 28, 2010 (See, ECF  
18 No. 42). As such, pursuant to Local Rule 7-3(a), Plaintiff's opposition and  
19 accompanying or supporting affidavits were to be served and filed on May 7, 2010.<sup>1</sup>

20 7. Due to the hearing date that was set for the motion and in light of the  
21 requirements of Local Rule 7-3, Plaintiff was provided a period of only seven (7) days  
22 to submit its opposition to Defendant's dispositive motion.

23 8. Pursuant to Local Rule 6-1, Plaintiff is seeking an extension of time, by  
24 stipulation, of seven (7) days, up to and including May 14, 2010, to file its  
25 memorandum in opposition to Defendant's Motion for Summary Judgment. Defense  
26 counsel has agreed to this request for an enlargement of time of seven (7) days in

---

27 <sup>1</sup> The parties previously filed a joint stipulation for an enlargement of time for Plaintiff to file its opposition to  
28 Defendant's Motion for Summary Judgment on May 7, 2010. This amended stipulation provides further clarification  
and detail per the request of the Court.



1 order for Plaintiff to file and serve its opposition to the Motion for Summary  
2 Judgment. Defendant's Reply in Support of its Motion for Summary Judgment will  
3 then be due seven (7) days thereafter, on or by May 21, 2010.

4 9. Pursuant to Local Rule 6-2(a)(2), no previous time modifications have  
5 been granted by Court order.

6 10. Pursuant to Local Rule 6-2(a)(3), there are no known effects that the  
7 requested time modification would have on the schedule for the case. Specifically, the  
8 entry of an order enlarging the time for the filing of Plaintiff's opposition to  
9 Defendant's Motion for Summary Judgment will not impact any further or future  
10 dates in this action, including the pre-trial conference, the trial, or any deadlines for  
11 the submission of pre-trial materials.

12 11. Moreover, Plaintiff would incur substantial harm and prejudice if not  
13 allowed to file an opposition to the pending motion for summary judgment pursuant to  
14 Local and Federal Rules, insofar as Plaintiff would not be permitted to provide  
15 pertinent information for the Court's consideration prior to disposition of this action.  
16 In addition, while Plaintiff would incur severe prejudice absent a nominal enlargement  
17 of time to file its opposition and accompanying affidavit to the pending motion, no  
18 such harm or prejudice would result from the entry of the Order sought.

19 12. This stipulation is not filed to unnecessarily delay the progress and  
20 resolution of this litigation.

21 13. Defendant's Motion for Summary Judgment is being submitted on the  
22 papers only, and no oral argument is requested. As such, the hearing previously set on  
23 the Motion for Summary Judgment on May 28, 2010 (See, ECF No. 42) can be  
24 stricken from the Court's calendar.

25 WHEREFORE Plaintiff, Lexington Insurance Company, as Subrogee of B-G  
26 Western, Inc., and Defendant, Schrader-Bridgeport International, Inc., respectfully  
27 request that this Court enter an Order, extending the date for the filing and service of  
28 Plaintiff's Opposition to Defendant's Motion for Summary Judgment by a period of



1 seven (7) days, up to and including May 14, 2010, and extending the date for the filing  
2 and service of Defendant's Reply in Support of its Motion for Summary Judgment up  
3 to and including May 21, 2010, and striking the hearing on Defendant's Motion for  
4 Summary Judgment set for May 28, 2010, and for any other relief this Court deems  
5 just and appropriate.

6 DATE: 5/12/2010

COZEN O'CONNOR

7  
8 By: s/S. Ellyn Farley

S. Ellyn Farley (*Admitted PHV*)  
222 S. Riverside Plaza  
Suite 1500  
Chicago, Illinois 60606  
Telephone: 312.382.3197  
Facsimile: 312.382.8910

11 and

12 Daniel Harshman  
13 777 South Figueroa Street  
Suite 2850  
14 Los Angeles, California 90017  
15 Telephone: 213.892.7000  
Facsimile: 213.892.7999

16 ***Attorneys for Plaintiff, Lexington***  
17 ***Insurance Company***

18 DATE: 05/12/2010

CLAUSEN MILLER P.C.

19  
20 By: s/Todd M. Murphy (with consent)

Todd M. Murphy (*Admitted PHV*)  
Paul Bozych (*Admitted PHV*)  
10 South LaSalle Street  
Suite 1600  
Chicago, Illinois 60603  
Telephone: 312.606.7697  
Facsimile: 312.606.7777

24 Bryan A. McBurney  
25 2040 Main Street, Suite 500  
Irvine, California 92614  
26 Telephone: 949.260.3100  
Facsimile: 949.260.3190  
27 ***Attorneys for Defendant Schrader-***  
28 ***Bridgeport International, Inc.***

**CERTIFICATE OF SERVICE**

I hereby certify that I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which sent notification of such filing to the following attorneys and I hereby certify that the above and foregoing was delivered, via email on this 12th day of May, 2010, to:

Todd M. Murphy (*Admitted PHV*)  
Paul Bozych (*Admitted PHV*)\  
CLAUSEN MILLER P.C.  
10 South LaSalle Street, Suite 1600  
Chicago, Illinois 60603  
Telephone: 312.606.7697  
Facsimile: 312.606.7777

and

Bryan A. McBurney  
2040 Main Street  
Suite 500  
Irvine, California 92614  
Telephone: 949.260.3100  
Facsimile: 949.260.3190  
*Attorneys for Defendant Schrader-Bridgeport International, Inc.*

---

Daniel Harshman, Esq.  
COZEN O'CONNOR  
777 South Figueroa Street  
Suite 2850  
Los Angeles, California 90017  
Telephone: 213.892.7900  
Facsimile: 213.892.7999

Bryan A. McBurney  
CLAUSEN MILLER P.C.  
2040 Main Street  
Suite 500  
Irvine, California 92614  
Telephone: 949.260.3100  
Facsimile: 949.260.3190

S. Ellyn Farley  
COZEN O'CONNOR  
222 S. Riverside Plaza  
Suite 1500  
Chicago, Illinois 60606  
Telephone: 312.382.3197  
Facsimile: 312.382.8910  
*Admitted Pro Hac Vice*

Paul Bozych (Admitted PHV)  
Todd M. Murphy (Admitted PHV)  
CLAUSEN MILLER P.C.  
10 South LaSalle Street  
Suite 1600  
Chicago, Illinois 60603  
Telephone: 312.606.7697  
Facsimile: 312.606.7777

Attorneys for Plaintiff,  
Lexington Insurance Company

Attorneys for Defendant  
Schrader-Bridgeport International, Inc.

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

Lexington Insurance Company, as Subrogee  
of B-G Western, Inc.,

Case No.: 3:09-cv-01509

Judge: Samuel Conti

Plaintiff,

vs.

Schrader-Bridgeport International, Inc.,

Defendant.

**ORDER**

THIS CAUSE coming to be heard on the Parties' Joint Stipulation for  
Enlargement of Time for Plaintiff to File its Opposition to Defendant's Motion for  
Summary Judgment, due notice having been given and the Court being fully advised:

IT IS HEREBY ORDERED that: 1) said Joint Stipulation is approved and the  
date for the filing and service of Plaintiff's Opposition to Defendant's Motion for  
Summary Judgment shall be extended by a period of seven (7) days, up to and  
including May 14, 2010; 2) the date for the filing and service of Defendant's Reply in  
Support of its Motion for Summary Judgment up to and including May 21, 2010; and

1 3) the hearing on Defendant's Motion for Summary Judgment set for May 28, 2010  
2 shall be stricken.

3  
4 DATED: 6/3, 2010

5 ENTERED: \_\_\_\_\_

